

Bankstahl, Herbert A.

S/N: 10/711,475

REMARKS

In the Office Action mailed August 11, 2005, the Examiner identified two groupings of claims, Group I containing claims 1-41 and 61-109 and Group II containing claims 42-60. The Examiner further required that, if Applicant elected Group I, Applicant would be required to elect one of an alleged eight (8) species. Applicant elected Group I and further elected what was identified as "Specie 2" and sought reconsideration of the restriction requirement. Applicant also indicated those claims which read on alleged "specie 2" and are generic between the alleged inventions of Group I and Group II. In the Office Action of November 23, 2005, the Examiner re-presented the species restriction requirement and made the restriction final.

Applicant presented arguments in the Response filed September 30, 2005 in support of rejoinder of claims 42-60 in light of the analysis applied by the Examiner that a threaded connection can generally be forced or pressed together. Such is not the case and it is illogical to assume that anyone would press or force together a threaded connection, let alone a person of ordinary skill in the art. Rather, one of ordinary skill in the art would readily appreciate that doing such would damage, if not destroy, the connectivity of the respective parts of the connector assembly if they were so forced together. Applicant also pointed out the similarities between the elements of the claims of Group I and Group II. The Examiner provided no response or reasoning beyond stating that the arguments were not persuasive to support rejoinder of the claims. The Examiner's basis of restriction between the claims of Group I and II remains that one of ordinary skill in the art would interpret a threaded connection as a connection that can be formed by "forcing or pressing" mating parts together. Applicant believes such an interpretation is insufficient to support the restriction between the claims of Groups I and II.

In the Office Action of November 23, 2005, the Examiner did not respond to any of Applicant's arguments in support of rejoinder of claims 42-60 of Group II. Rather, the Examiner rearticulated the unsupportable eight (8) way species restriction. In setting forth the species restriction the Examiner completely disregarded the prohibition against designating claims as species. The MPEP is explicit -- "*claims are never species*". MPEP §806.04(e). The Examiner alleges species exist and are not shown. The Examiner's allegation that multiple species are not shown and that the elected species (Species 2, as shown in Figures 13-17), does not include the elements of the other species is unsupported by the Specification as filed and the original claims. Applicant does not necessarily disagree that the present Application includes at least two embodiments of a connector assembly -- the first being generally shown in Fig. 3 and the second being generally shown in Fig. 13. To allege that the claims include 8 species is simply not

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supported by the Application as filed. The Examiner's a species restriction relies on alleging claims as species. Such a restriction is clearly improper and unsupportable.

Applicant acknowledges the Office's burden in examining 109 claims. Even so, such burden cannot justify a restriction alleging claims as species. The present application was filed with 109 claims. Applicant paid for these claims. The filing fee included the fees required for examination and consideration of these claims. The interrelationship of the claims of the present invention and the embodiments of the figures is readily apparent from a review of the claims. Applicant made a careful review of all the claims and of the alternate embodiments as shown in the figures and presented a good faith election of specie 2 of Group I as directed to claims 1-15, 19-22, 24-37, 61-67, 70-81, 85-96, 99, and 101-108 and requested rejoinder of claims 41-58 of Group II. Applicant further requested rejoinder of those claims directed to species I upon an indication of the allowability of any of the generic claims.

Applicant requests rejoinder of all of the originally filed claims as the Examiner has (1) failed to provide a supportable basis for maintaining the restriction between the claims of Groups I and II, (2) has not responded to Applicant's arguments related to rejoinder therebetween, and (3) has improperly called for "claims as species." At least for the reasons set forth above, Applicant believes that restriction between the claims of the above-captioned Application is improper and unsupportable and respectfully requests rejoinder of all claims of each group.

Applicant appreciates consideration of these Remarks and cordially invites the Director to call the undersigned if discussion will further prosecution.

Respectfully submitted,

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